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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,447	06/23/2003	Kenichiro Kawato	MM0706US (#90326)	9769
28672	7590	07/23/2004	EXAMINER	
D. PETER HOCHBERG CO. L.P.A.			LE, MARK T	
1940 EAST 6TH STREET			ART UNIT	
CLEVELAND, OH 44114			PAPER NUMBER	

3617

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/601,447	Applicant(s) KAWATO ET AL.	
	Examiner Mark T. Le	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/10/04, 9/25/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I - shown in Figures 1-20;

Species II - shown in Figures 21-24;

Species III - shown in Figures 25-26;

Species IV - shown in Figures 27-30; and

Species V - shown in Figure 31.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. Hochberg on July 15, 2004 a provisional election was made with traverse to prosecute the invention of Species II, claims 1-7 and 10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-9 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

4. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in Japan on June 21, 2002. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter. The abstract of the disclosure is objected to because legal phraseologies, such as the word "means", in lines 9 and 13 of the abstract, should be avoided. Correction is required. See MPEP § 608.01(b).

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1- 5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese reference 49-107081.

Japanese reference, Figures 1-2, shows a conveyance apparatus having all the features recited in the instant claims, including movable bodies 3 each being in the form of three connecting frame members, a rail arrangement comprising main rail 4 and a pair of lateral travel rail members 4a and 4b, branching means 4d interconnecting the lateral travel rail members and the main rail, and motion force applying means 5, 5a and 5b; wherein, the all the frame members of the movable bodies are aligned along the travel direction when they are on main rail 4, and aligned on both lateral travel rail members when they are moved onto the lateral travel rail members as shown in Figure 1 of the Japanese reference.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 49-107081 in view of Nakagami (US 6,360,671).

The Japanese reference is applied above.

Regarding the moving means being in the form of feeding rollers engaging the passive surfaces of the moving bodies, as recited in instant claim 6, consider Figure 4 of Nakagami. In view of Nakagami, it would have been obvious to one skilled in the art to substitute a moving means, similar to that taught by Nakagami, for the moving means

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used in the Japanese reference so as to achieve expected advantages thereof, e.g. greater flexibilities in controlling the movements of the moving bodies, in group or individually.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 49-107081 in view of Japanese reference 55-130412.

The Japanese reference '081 is applied above.

Regarding the instant claimed branching means in the form of divided rail members on rotating devices for rotating the divided rail members, as recited in instant claim 7, consider the branching means shown in Figure 4 of Japanese reference '412. In view of Japanese reference '412, it would have been obvious to one skilled in the art to substitute branching means, similar to that taught by Japanese reference '412, for the branching means used in Japanese reference '081 so as to achieve expected advantages thereof, e.g. a sharp turn can be made without requiring a gradually curved rail for the transition between the interconnecting main rail and traversing rail.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should further consider the structures of Wakabayashi, Wesselski, and Dehne.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le
Primary Examiner
Art Unit 3617

mle
7/16/04